

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	Atty. Docket
NEIL C. BIRD ET AL.	GB 030177 US1
	Confirmation No. 9694
Serial No. 10/574,433	Group Art Unit: 2617
Filed: APRIL 3, 2006	Examiner: PATEL, M.C.
Title: RADIO SYSTEM WITH CONFIGURABLE LINKS	

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APPEAL BRIEF

Sir:

Appellants herewith respectfully present a Brief on Appeal as follows, having filed a Notice of Appeal on July 29, 2009:

REAL PARTY IN INTEREST

The real party in interest in this appeal is the assignee of record Koninklijke Philips Electronics N.V., a corporation of The Netherlands having an office and a place of business at Groenewoudseweg 1, Eindhoven, Netherlands 5621 BA.

RELATED APPEALS AND INTERFERENCES

Appellants and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1, 4-17 and 19-27 are pending in this application, where claims 2-3 and 18 are canceled. Claims 1, 4-17 and 19-27 are rejected in the Final Office Action mailed on April 29, 2009. This rejection was upheld in an Advisory Action mailed on July 15, 2009. Claims 1, 4-17 and 19-27 are the subject of this appeal.

STATUS OF AMENDMENTS

Appellants filed on June 29, 2009 an after final amendment in response to a Final Office Action mailed April 29, 2009. The after final amendment did not include any amendments. In an Advisory Action mailed on July 15, 2009, it is indicated that the after final amendment filed on June 29, 2009 does not place the application in condition for allowance. This Appeal Brief is in response to the Final Office Action mailed April 29, 2009, that finally rejected claims 1, 4-17 and 19-27, which remain finally rejected in the Advisory Action mailed on July 15, 2009.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, for example, as recited in independent claim 1, shown in FIG 1-5 and described on page 4, line 28 to page 2, line 3 of the specification, is directed to a method of configuring a radio link between a first device, such as an e-button 10a, and a second device, such as another e-button 10b. As shown in FIG 3 and described on page 5, lines 20-27, each of the first device 10a and the second device 10b comprises radio means, such as a radio transceiver 32. Further, as shown in FIG 3 and described on page 5, lines 28-30, and page 6, lines 8-11, at least one of the first device 10a and the second device 10b comprises proximity detection means, such a magnetic switch module 38 and timing means, such as a clock oscillator 34. As shown in FIG 5 and described on page 8, lines 9-22, the method comprises detecting proximity (step 50) between the first device 10a and the second device 10b when the first device 10a and the second device 10b are within a predetermined distance of each other, detecting a duration (step 52) of the proximity of the first device 10a and the second

device 10b to each other, and establishing the link (step 60) in response to the duration exceeding a predetermined duration and the link is not already established.

The present invention, for example, as recited in independent claim 9, shown in FIG 1-5 and described on page 4, line 28 to page 2, line 3 of the specification, is directed to a system having devices including a first radio device, such as an e-button 10a, and a second device, such as another e-button 10b. As shown in FIG 3 and described on page 5, lines 20-27, the radio devices 10a, 10b comprise radio means, such as a radio transceiver 32, operable to communicate via a configurable radio link therebetween. Further, as shown in FIGs 3-5 and described on page 6, lines 8-11 and page 8, lines 9-22, at least one of the devices 10a, 10b comprises proximity detection means, such a magnetic switch module 38, for detecting proximity between the first radio device 10a and the second radio device 10b when the devices 10a, 10b are within a predetermined distance of each other. The devices 10a, 10b also

comprise timing means, such as a clock oscillator 34, as described on page 5, lines 28-30, and page 8, lines 9-22, for detecting duration of the proximity, where the radio transceivers 32 establish the radio link in response to the duration exceeding a predetermined duration and the radio link is not already established.

The present invention, for example, as recited in independent claim 11, shown in FIG 1-5 and described on page 4, line 28 to page 2, line 3 of the specification, is directed to a radio device, such as an e-button 10a, operable to communicate via a configurable radio link with a further device, such as another e-button 10b. As shown in FIGs 3-5 and described on page 6, lines 8-11 and page 8, lines 9-22, the radio device 10a comprises proximity detection means, such a magnetic switch module 38, for detecting proximity between the radio device 10a and the further device 10b when the radio device 10a and the further device 10b are within a predetermined distance of each other. The radio device 10a also

comprises timing means, such as a clock oscillator 34 as described on page 5, lines 28-30, and page 8, lines 9-22, for detecting duration of the proximity, and radio means, such as a radio transceiver 32 as described on page 5, lines 20-27, for establishing the radio link in response to the duration exceeding a predetermined duration and the radio link is not already established.

The present invention, for example, as recited in independent claim 22, shown in FIG 1-5 and described on page 4, line 28 to page 2, line 3 of the specification, is directed to a method of configuring a radio link between a first device, such as an e-button 10a, and a second device such as another e-button 10b. As shown in FIG 5 and described on page 8, lines 9-22, the method comprises detecting proximity (step 50) between the first device 10a and the second device 10b when the first device 10a and the second device 10b are within a predetermined distance of each other; detecting a duration (step 52) of the proximity of the first

device 10a and the second device 10b to each other; and establishing the radio link (step 60) in response to the duration exceeding a predetermined duration.

The present invention, for example, as recited in independent claim 23, shown in FIG 1-5 and described on page 4, line 28 to page 2, line 3 of the specification, is directed to a system comprising a first device, such as an e-button 10a, and a second device, such as another e-button 10b, for communicating with the first device 10a via a radio link. As shown in FIGs 3-5 and described on page 6, lines 8-11 and page 8, lines 9-22, at least one of the devices 10a, 10b comprises a proximity detector, such a magnetic switch module 38, configured to detect proximity between the first device 10a and the second device 10b when the first device 10a and the second device 10b are within a predetermined distance of each other. The devices 10a, 10b also comprise a timer, such as a clock oscillator 34, as described on page 5, lines 28-30, and page 8, lines 9-22, configured to detect duration of the proximity, where

the radio link is established in response to the duration exceeding a predetermined duration.

The present invention, for example, as recited in independent claim 24, shown in FIG 1-5 and described on page 4, line 28 to page 2, line 3 of the specification, is directed to a radio device, such as an e-button 10a, operable to communicate via a radio link with a further device, such as another e-button 10b. As shown in FIGS 3-5 and described on page 6, lines 8-11 and page 8, lines 9-22, the radio device 10a comprises a proximity detector, such a magnetic switch module 38, configured to detect proximity between the radio device 10a and the further device 10b when the radio device 10a and the further device 10b are within a predetermined distance of each other. The radio device 10a also comprises a timer, such as a clock oscillator 34, as described on page 5, lines 28-30, and page 8, lines 9-22, where the timer is configured to detect duration of the proximity. The radio device 10a also comprises a transceiver 32 for establishing the radio link in response to the duration

exceeding a predetermined duration, as shown in FIG 3 and described
on page 5, lines 20-27.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1, 6, 8-10, 22-24 and 27 of U.S. Patent Application Serial No. 10/574,433 are unpatentable under 35 U.S.C. §102(e) over U.S. Patent Application Publication No. 2003/0162556 (Libes).

Whether claims 4-5 and 25-26 of U.S. Patent Application Serial No. 10/574,433 are unpatentable under 35 U.S.C. §103(a) over Libes.

Whether claims 11-17 and 19-21 of U.S. Patent Application Serial No. 10/574,433 are unpatentable under 35 U.S.C. §103(a) over Libes in view of U.S. Patent No. 6,980,083 (Sako).

Whether claim 7 of U.S. Patent Application Serial No. 10/574,433 is unpatentable under 35 U.S.C. §103(a) over Libes in view of U.S. Patent No. 6,130,602 (O'Toole).

ARGUMENT

Claims 1, 6, 8-10, 22-24 and 27 are said to be unpatentable under 35 U.S.C. §102(e) over Libes.

Appellants respectfully request the Board to address the patentability of independent claims 1, 9, 11, 22, 23 and 24, and further claims 4-8, 10, 12-17, 19-21 and 25-27 as depending from claims 1, 9, 11 and 24, based on the requirements of independent claims 1, 9, 11 and 24. This position is provided for the specific and stated purpose of simplifying the current issues on appeal. However, Appellants herein specifically reserve the right to argue and address the patentability of claims 4-8, 10, 12-17, 19-21 and 25-27 at a later date should the separately patentable subject matter of claims 4-8, 10, 12-17, 19-21 and 25-27 later become an issue. Accordingly, this limitation of the subject matter presented for appeal herein, specifically limited to discussions of the patentability of claims 1, 9, 11, 22, 23 and 24, is not intended as a waiver of Appellants' right to argue the patentability of the further claims and claim elements at that later time.

Libes is directed to a method and system for communication

between two wireless-enabled devices. Each wireless-enabled device includes a wireless handshake plug that is capable of transmitting and receiving data. When the two plugs are brought into physical proximity of each other, a communication link is established.

It is respectfully submitted that Libes does not teach or suggest the present invention as recited in independent claim 1, and similarly recited in independent claims 9, 22, 23 and 24 which, amongst other patentable elements, recites (illustrative emphasis provided):

detecting a duration of the proximity of the first device and the second device to each other, and establishing the link in response to the duration exceeding a predetermined duration and the link is not already established.

Detecting a duration of proximity and establishing the link in response to the duration of proximity exceeding a predetermined duration are nowhere disclosed or suggested in Libes. It is alleged on pages 3-7 and 9 of the Final Office Action, that FIGS 23-24 of Libes disclose these features.

Appellants respectfully disagree and submit that Libes discloses that "[d]uring handshaking, one of the devices detects

the magnet from the other device and begins transmitting handshaking data via changes to the magnet's magnetic field. The magnetic field detector receives the data." (Libes, paragraph [0037], lines 5-8) Further, as specifically shown in FIG 23-24, a listening device (being one of the two Libes wireless-enabled devices) "listens for N milliseconds" and then checks to see if data has been received. If not, the listener transmits handshake data, and listens again for N seconds for reception of data responsive to the transmitted handshake data.

Upon reception of such data responsive to the transmitted handshake data, then it is determined whether the two Libes wireless-enabled devices are compatible by performing a test labeled in FIGs 23-24 as "Can the connection be created." If yes, then a connection is created.

That is, a careful review of FIGs 23-24 indicates that a connection is NOT created in response to listening for N seconds for reception of data responsive to the transmitted handshake data. Rather, the connection is created in response to reception of data and determination that a connection can be created.

There is simply no disclosure or suggestion in Libes of detecting a duration of proximity and establishing the link in response to the duration of proximity exceeding a predetermined duration, as recited in independent claims 1, 9, 22, 23 and 24. N, shown in FIGs 23-24 is not even the duration of proximity in Libes. Rather, N is merely an amount to time to listen for any received data.

Even assuming, arguendo, that N is the duration of proximity of the two Libes wireless-enabled devices, no connection or link is created in response to N exceeding a predetermined duration. Rather, the connection in Libes is created in response to reception of data responsive to a transmitted handshake data, and a determination that a connection can be created. Sako and O'Tool are cited to allegedly show other features and do not remedy the deficiencies in Libes.

The Advisory Action of July 15, 2009, paragraph 3, lines 2-4, alleges that:

Libes discloses to create connection if $250 < N < 350$ then it proceeds to create a connection, which is after the value N exceeds the range 250 millisecond (predetermined time or duration). (Emphasis added)

Assuming, arguendo, that Libes discloses to proceed to create a connection if $250 < N < 350$, such a connection is simply not made "in response to the duration exceeding a predetermined duration and the link is not already established," as recited in independent claim 1, and similarly recited in independent claims 9, 22, 23 and 24.

Rather, any connection in Libes is made in response to reception of data and determination that a connection can be created, although after listening for N milliseconds. That is, if no data is received, even after listening for N milliseconds, a connection is NOT made; rather, as clearly shown in FIG 24, the Libes method loops back and listens again for N milliseconds. And, if data is never received, then FIG 24 clearly shows that Libes just repeats listening for N milliseconds and checking for data reception. Any connection in Libes is made in response to reception of data, and NOT in response to listening for N milliseconds.

Accordingly, it is respectfully requested that independent claims 1, 9, 22, 23 and 24 be allowed. In addition, it is respectfully submitted that claims 6, 8, 10 and 27 should also be

allowed at least based on their dependence from independent claims 1, 9 and 24 as well as their individually patentable elements.

Claims 4-5 and 25-26 are said to be unpatentable under 35 U.S.C. §103(a) over Libes.

It is respectfully submitted that claims 4-5 and 25-26 should be allowed at least based on their dependence from independent claims 1 and 24.

Claims 11-17 and 19-21 are said to be unpatentable under 35 U.S.C. §103(a) over Libes in view of Sako.

Independent claim 11 recites features similar to those discussed above in connection with independent claim 1. In particular, claim 11 recites "radio means for establishing the radio link in response to the duration exceeding a predetermined duration and the radio link is not already established."

(Illustrative emphasis provided) As discussed above in connection with independent claim 1, establishing a radio link in response to the duration exceeding a predetermined duration and the radio link is not already established, as recited in independent claim 11, is nowhere disclosed or suggested in Libes. Rather, the connection in Libes is created in response to reception of data. Sako is cited

to allegedly show other features and does not remedy the deficiencies in Libes.

Accordingly, it is respectfully requested that independent claim 11 be allowed. Further, as discussed above, claims 1 and 9 should also be allowed. In addition, it is respectfully submitted that claims 12-17 and 19-21 should also be allowed at least based on their dependence from independent claims 1, 9 and 11 as well as their individually patentable elements.

Claim 7 is said to be unpatentable under 35 U.S.C. §103(a) over Libes in view of O'Toole.

It is respectfully submitted that claim 7 should be allowed at least based on its dependence from independent claim 1.


In addition, Appellants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Appellants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

CONCLUSION

Claims 1, 4-17 and 19-27 are patentable over Libes, Sako and O'Tool.

Thus, the Examiner's rejections of claims 1, 4-17 and 19-27 should be reversed.

Respectfully submitted,

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September 25, 2009

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CLAIMS APPENDIX

1. (Previously Presented) A method of configuring a radio link between a first device and a second device, each of the first device and the second device comprises radio means, and wherein at least one of the first device and the second device comprises proximity detection means and timing means, wherein said method comprises the acts of:

detecting proximity between the first device and the second device when the first device and the second device are within a predetermined distance of each other,

detecting a duration of the proximity of the first device and the second device to each other, and

establishing the link in response to the duration exceeding a predetermined duration and the link is not already established.

Claims 2-3 (Canceled)

4. (Previously Presented) The method as claimed in claim 1,

wherein said predetermined duration is between substantially two and ten seconds.

5. (Previously Presented) The method as claimed in claim 1, wherein said predetermined duration is about 2 seconds.

6. (Previously Presented) The method as claimed in claim 1, further comprising the act of exchanging identifiers of the first device and the second device, wherein said identifiers are pre-installed radio identifiers.

7. (Previously Presented) The method as claimed in claim 1, further comprising the act of exchanging identifiers of the first device and the second device, wherein said identifiers are randomly generated radio identifiers.

8. (Previously Presented) The method as claimed in claim 1, further comprising the act of indicating a configuration status of the link.

9. (Previously Presented) A system having devices including a first radio device and a second radio device comprising radio means operable to communicate via a configurable radio link therebetween, and wherein at least one of said devices comprises proximity detection means for detecting proximity between the first radio device and the second radio device when said devices are within a predetermined distance of each other, and timing means for detecting duration of said proximity, and wherein said radio means establish the radio link in response to the duration exceeding a predetermined duration and the radio link is not already established.

10. (Previously Presented) The system as claimed in claim 9, wherein said first and second device are adapted to physically connect with respective host apparatus and wherein said apparatus communicate with one another via said configurable radio link.

11. (Previously Presented) A radio device operable to

communicate via a configurable radio link with a further device, the radio device comprising proximity detection means for detecting proximity between the radio device and the further device when the radio device and the further device are within a predetermined distance of each other, timing means for detecting duration of said proximity, and radio means for establishing the radio link in response to the duration exceeding a predetermined duration and the radio link is not already established.

12.(Previously Presented) The radio device as claimed in claim 11, wherein said proximity detection means comprises a reed switch and magnet.

13.(Previously Presented) The radio device as claimed in claim 12, wherein said magnet has insufficient field strength to operate said reed switch and wherein said switch and magnet are arranged such that some of the magnetic field lines emanating from the magnet are perpendicular to the direction in which the switch closes.

14. (Previously Presented) The radio device as claimed in claim 12, wherein said magnet has sufficient field strength to operate said reed switch, and wherein said reed switch and magnet are arranged such that the magnetic field lines emanating from the magnet are substantially parallel to the direction in which the switch closes.

15. (Previously Presented) The radio device as claimed in claim 13, wherein said timing means comprises a micro-controller connected with said proximity detection means.

16. (Previously Presented) The radio device as claimed in claim 15, wherein said radio means comprises a digital transceiver controlled by said micro-controller.

17. (Previously Presented) The radio device as claimed in claim 11, the device being further adapted to physically connect with a host apparatus and provide and receive data to and from said

host apparatus.

Claim 18 (Canceled)

19. (Previously Presented) The method of claim 1, further comprising the act of removing the link if the link is already established.

20. (Previously Presented) The system of claim 9, wherein said radio means remove the radio link if the radio link is already established.

21. (Previously Presented) The system of claim 11, wherein said radio means remove the radio link if the radio link is already established.

22. (Previously Presented) A method of configuring a radio link between a first device and a second device comprising the acts of:

detecting proximity between the first device and the second device when the first device and the second device are within a predetermined distance of each other;

detecting a duration of the proximity of the first device and the second device to each other; and

establishing the radio link in response to the duration exceeding a predetermined duration.

23. (Previously Presented) A system comprising:

a first device; and

a second device for communicating with the first device via a radio link;

wherein at least one of the first device and the second device comprises:

a proximity detector configured to detect proximity between the first device and the second device when the first device and the second device are within a predetermined distance of each other; and

a timer configured to detect duration of the proximity;

wherein the radio link is established in response to the duration exceeding a predetermined duration.

24. (Previously Presented) A radio device operable to communicate via a radio link with a further device, the radio device comprising:

a proximity detector configured to detect proximity between the radio device and the further device when the radio device and the further device are within a predetermined distance of each other;

a timer configured to detect duration of the proximity; and
a transceiver for establishing the radio link in response to the duration exceeding a predetermined duration.

25. (Previously Presented) The radio device of claim 24, wherein the proximity detector comprises a reed switch and magnet, the reed switch being positioned substantially perpendicular to magnetic field lines emanating from the magnet, wherein the magnet has insufficient field strength to operate the reed switch so that

the reed switch is not operated by the magnetic field lines substantially perpendicular to the reed switch.

26. (Previously Presented) The radio device of claim 24, wherein the proximity detector comprises a reed switch and magnet, the magnet having sufficient field strength to operate the reed switch, wherein the reed switch is positioned substantially parallel to magnetic field lines emanating from the magnet so that the reed switch is not operated by the magnetic field lines substantially parallel to the reed switch.

27. (Previously Presented) The radio device of claim 24, wherein the proximity detector comprises a reed switch and magnet, the reed switch being activated by a further magnet of the further device with the further device is within the predetermined distance, wherein the reed switch is connected to the timer for determination of duration of activation of the reed switch and establishment of the radio link in response to the duration of activation exceeding the predetermined duration.

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EVIDENCE APPENDIX

None

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RELATED PROCEEDINGS APPENDIX

None